

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, ex rel.)	
State Engineer,)	No. 69 CV 7941 MV/KK
)	
Plaintiff,)	Rio Chama Adjudication
)	
v.)	Pueblo Claims Subproceeding 1
)	
ROMAN ARAGON, et al.,)	
)	
Defendants.)	
_____)	

JOINT STATUS REPORT

Pursuant to this Court's Order of December 11, 2014 (Document 11063), the undersigned Parties submit this Joint Status Report. Because the Parties are negotiating a resolution of all of Ohkay Owingeh's water rights claims in two stream systems, this Joint Status Report is being filed simultaneously in the Rio Santa Cruz/Rio de Truchas adjudication suit, *State of New Mexico ex rel. State Engineer, et al. v. Abbott*, No. 68-cv-7488 (MV/WHL) (*Abbott*).

1. Settlement Negotiations

Since the last status report, the negotiating Parties have continued to work diligently in addressing specific issues necessary to a settlement of Ohkay Owingeh's water rights claims. As previously disclosed to this Court in a Joint Status Report, the discussions have focused on Ohkay Owingeh's proposal to resolve its claims based on

historic and present use of water within its Grant Lands, within a framework adopted by the negotiating Parties. The proposal concerns the Pueblo's water rights claims in both *Abbott* and *Aragon*. The Parties are bound by confidentiality agreements that constrain disclosure of discussion topics. In general, the Parties have addressed issues related to water supply and reliability; protection of current water uses; settlement process, including the appointment of a Federal Negotiating Team; and the gathering and technical analyses of data essential to the Pueblo settlement. The Pueblo and the United States, through the Bureau of Indian Affairs, are actively collaborating to marshal sufficient resources to secure additional data on water supply within the Grant. These discussions have been productive, and the Parties believe progress is being made toward settlement.

On October 8, 2014, for the first time Ohkay Owingeh met with the negotiating Parties in both *Abbott* and *Aragon* in a single meeting to discuss coordination of the negotiations and the plan for continuing such discussions. In addition, the representatives of Ohkay Owingeh conducted in-person meetings or telephonic meetings separately with specific negotiating Parties in *Abbott* or *Aragon* on October 17, December 2, December 3, December 9, December 15 and December 16, 2014. Throughout these months, Ohkay Owingeh has continued internally to develop the data necessary to the determination of its water requirements.

On December 16, 2014 and January 22, 2015 Ohkay Owingeh's consultants continued their separate discussions with consultants for the City of Española with regard

to hydrologic issues unique to those Parties, who share a geographical boundary and groundwater source.

Ohkay Owingeh and Santa Clara Pueblo have continued their discussions with regard to the issues unique to them, and the Parties are making progress towards resolution of the outstanding issues.

Having reached consensus on the need for a Federal Negotiation Team issue, on October 20, 2014, the negotiating Parties in both *Abbott* and *Aragon* submitted a letter signed by all negotiating Parties to the Department of the Interior requesting the appointment of a Federal Negotiation Team to assist with the negotiations in both cases. On November 12, 2014, Ohkay Owingeh submitted additional information to the Department of Interior to demonstrate that the federal criteria for the appointment of a Federal Negotiation Team had been met. On November 18, 2014, the Pueblo Governor and other Pueblo leaders traveled to Washington DC to meet with the New Mexico Congressional Delegation and key persons in the Department of Interior to secure their support for the appointment of a Federal Negotiating Team. The Pueblo secured the support it sought. The Parties' joint request for appointment of a Federal Team is under active consideration by the Interior Secretary's Office of Indian Water Rights.

2. Scheduling Dispositive Motions

In light of these discussions and meetings planned for the future, the undersigned Parties do not anticipate the need for the Court to schedule the filing and briefing of motions for summary judgment or other dispositive motions within the next four months. The Parties are committed to continuing these discussions.

3. Rescheduling the Trial

For the same reason, the undersigned Parties do not believe that the trial should be scheduled at this time.

4. Other Matters

The undersigned Parties suggest that the Court require the filing of a joint status report four months from now, or June 5, 2015, at which time they will report to the Court on their progress and on the question of whether they believe the Court should schedule dispositive motions or otherwise resume litigation.

Dated: February 6, 2015

Respectfully submitted,

/s/ Curtis G. Berkey

Attorneys for Ohkay Owingeh

Curtis G. Berkey (CA State Bar No. 195485)

E-mail: cberkey@berkeywilliams.com

Scott W. Williams (CA State Bar No. 097966)

E-mail: swilliams@berkeywilliams.com

Berkey Williams LLP

2030 Addison Street, Suite 410

Berkeley, California 94704

Lee Bergen

Bergen Law Offices, LLC

4110 Wolcott Avenue NE, Suite A

Albuquerque, New Mexico 87109

lbergen@nativeamericanlawyers.com

///

Attorney for the United States

/s/ Bradley Bridgewater

Bradley Bridgewater
U.S. Department of Justice
South Terrace, Suite 370
999 18th Street
Denver, CO 80202
Bradley.S.Bridgewater@usdoj.gov

Attorneys for State of New Mexico

/s/ Arianne Singer

Arianne Singer
John Stroud
Special Assistant Attorneys General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
arianne.singer@state.nm.us
jestroud@comcast.net

Attorneys for City of Española

/s/ Jay Stein

Jay Stein
Seth R. Fullerton
Stein & Brockmann, PA
P.O. Box 2067
Santa Fe, NM 87504-2067
jfstein@newmexicowaterlaw.com
srfullerton@newmexicowaterlaw.com

Attorney for Rio Chama Acéquias Association

/s/ Peter Thomas White

Peter Thomas White
Sena Plaza, Suite 50
125 East Palace Avenue
Santa Fe, NM 87501
pwhite9098@aol.com

Attorneys for El Rito Ditch Association and its acéquia members; Gallin-Capulin Acéquia Association and its acequia members; La Asociacion de las Acéquias del Rio Tusas, Vallecitos y Ojo Caliente and its acéquia members

/s/ Mary E. Humphrey

Mary E. Humphrey
Connie Odé
Humphrey & Odé, PC
P.O. Box 1574
El Prado, NM 87529
humphrey@newmex.com
code@newmex.com

Attorneys for Asociacion de Acéquias Norteñas de Rio Arriba

/s/ John W. Utton

John W. Utton
Sheehan & Sheehan, PA
P. O. Box 271
Albuquerque, NM 83703-0271
jwu@sheehansheehan.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of February, 2015, I filed the foregoing electronically through the CM/ECF system, which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Curtis G. Berkey

Curtis G. Berkey